

Committee on Resources

Witness Testimony

STATEMENT OF THE SIERRA CLUB
on H.R. 2924, To provide for the selection of lands by certain veterans of the Vietnam era and by the Elim
Reserve
Before the
COMMITTEE ON RESOURCES
UNITED STATES HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.

FEBRUARY 25, 1998

Mr. Chairman and members of the Committee, thank you for inviting me to testify this morning. I am Jack Hession, Alaska Representative of the Sierra Club, a national environmental organization of over 600,000 citizens with chapters in every state. I live in Anchorage, Alaska.

H.R. 2924 proposes to grant Alaska Native allotments to certain veterans of the Vietnam era, and to grant an additional 50,000 acres to the Elim Native Corporation.

In summary, the Sierra Club does not support the veterans section as written. We recommend changes designed to accomplish the basic intent while also protecting the national interest in the public lands involved.

We are on record as opposing the proposed expansion of the Elim Reserve. Our position has not changed.

New Native allotments

H.R. 2924 proposes a reopening of the Alaska Native Allotment Act of 1906 to allow veterans of the Vietnam era (1964-1975) who did not apply for an allotment prior to December 18, 1971 to now receive an allotment of 160 acres. To be eligible for an allotment, a Vietnam era veteran would have to have been eligible under the Allotment Act as it was in effect prior to its revocation in 1971. Heirs of deceased eligible veterans would also receive an allotment under this bill.

In evaluating this proposal, the Committee and other interested parties have the benefit of a June 30, 1997 Report Concerning Open Season for Certain Native Alaska Veterans for Allotments (Report) prepared by the Department of the Interior at the request of the Committee. The Report includes the estimated number of Vietnam-era veterans who were eligible but did not apply for an allotment prior to December 18, 1971; assesses the potential impacts of granting new allotments on the conservation system units established by the Alaska National Interest Lands Conservation Act of 1980 (ANILCA);⁽¹⁾

and makes recommendations "...for any additional legislation that the Secretary concludes is necessary."

The Report focuses on two military service periods for the purpose of analyzing the potential impact on the CSUs: (1) August 5, 1964 to May 8, 1975, the Vietnam Era as defined in existing law and H.R. 2924; and

(2) at least one year of service between January 1, 1970 to December 18, 1971, a period which "coincides with the period when a major effort was made by the BIA and others to publicize the allotment program and assist Natives in completing their [allotment] applications."

Use of either period would involve a substantial amount of new applications and loss of acreage in the CSUs, according to the Report. The potential impact can be summarized as follows:

(a) National Wildlife Refuges (16)

1964-1975: up to a maximum of 1,111 new allotment applications by veterans enrolled to villages affecting 64,064-110,784 acres. If veterans enrolled to a region are included, an additional 32,872 acres of refuge lands could potentially be affected.

1970-71: up to a maximum of 463 new allotment applications affecting 26,720-46,720 acres. In veterans enrolled to a region are included, an additional 9,016 acres could potentially be affected.

(b) National Park System units (16)

1964-75: 115 new applications, 15,360 acres.

1970-71: 26 new applications, 3520 acres.

(c) CSUs managed by the Bureau of Land Management

1964-75: 50 new applications in six wild and scenic rivers, 8000 acres.

1970-71: 15 new applications in five wild and scenic rivers, 2400 acres.

There would be little or no impact on management of the Iditarod National Historic Trail. Any new allotment conveyance that overlapped the trail would include a public use easement for the trail. Because construction was begun in 1908, the trail predates any possible use and occupancy of trail lands by Alaska Native Vietnam-era veterans.

(d) National Petroleum Reserve-Alaska (BLM)

1964-75: 48 new applications, 7,680 acres.

1970-71: 9 applications, 2400 acres.

Impact on the National Interest Lands of new Alaska Native Allotments

As the Report amply documents, the establishment of hundreds of new Native allotments covering tens of thousands of acres in the CSUs would at a minimum complicate management of the units, and over time give rise in many instances to incompatible developments such as recreational land subdivisions, sport fishing and hunting lodges and camps, and other commercial developments. As the National Park Service notes in the Report,

Native allotments are generally located in

the more usable, accessible and resource rich lands in any given area. New allotments would displace existing public use from many of these locations. Additionally, it can be expected that some new applicants would apply for locations in park system units with the greatest potential for commercial development. (p.26)

"Of particular concern," says the National Park Service, is the possibility of allotments being subdivided for residential purposes. Subdivisions

can impair scenic quality and wilderness character of adjacent park lands. Access roads, airstrips and other surface disturbance can accelerate erosion and increase runoff and sediment loads in adjacent water bodies. Development of small tracts threatens the long-term protection and possible interpretation of significant cultural sites. Waste generated by residents can contaminate groundwater and create a need for landfills to concentrate refuse. Concentrated human habitation can result in increased hunting, changes in wildlife distribution and changes in migration patterns. Human presence may attract and habituate bears to humans and human refuse, thus increasing the possibility of human-bear confrontations. (p. 26).

Similar potential adverse impacts on the wildlife refuges are outlined by the U.S Fish and Wildlife Service based on experience to date with some existing allotments. For example, in the case of Kodiak National Wildlife Refuge, one of the refuges that would be most affected by H.R. 2924, the Service notes that,

Several Native allotments within the refuge have been offered on the real estate market in recent years. The parcels have been subdivided or offered in their entirety for hunting and/or fishing lodges and other developments which threaten the long-term health of this unique ecosystem. Brown bear-human conflicts are on the rise with new cabins appearing every summer. Cabin and lodge construction directly on an archaeological site is common.

The public can expect similar impacts on at least some of the 50 new allotments along the six wild and scenic rivers if H.R. 2924 is enacted in its present form.

In order to avoid the well-known adverse effects of incompatible development and uses of private and state lands within CSUs, Congress in Sec. 1302 of ANILCA authorized the Secretary to acquire inholdings by purchase, donation, exchange or otherwise.

In the 17 years since passage of the Act, Congress has appropriated millions of dollars to acquire non-federal lands within CSUs. For example, during the first session of this Congress, \$2 million was appropriated for purchase of private lands near McCarthy, in the heart of Wrangell-St. Elias National Park and Preserve, in order to preclude the sale of these lands for residential purposes.

Over the years about \$12 million has been appropriated for acquisition of patented and unpatented mining claims in the Kantishna area of Denali National Park and Preserve in a largely successful effort to avoid the proliferation of lodges and other inappropriate commercial development.

Congress has appropriated \$4.5 million from the Land and Water Conservation Fund to purchase small tracts within the Kodiak National Wildlife Refuge from willing sellers. "The bulk of this money has been spent to acquire Native allotments," according to the Report. (The Fish and Wildlife Service has also received \$3 million from the Exxon Valdez Oil Spill Settlement account for the purchase of small tracts in the refuge.)

In addition, Congress since ANILCA has also authorized numerous land exchanges designed to acquire CSU inholdings and to improve the land holdings of Native corporations.

Recommendations

H.R. 2924 presents the Committee with the task of reconciling two Congressional goals: on the one hand, the need to deal fairly with certain Alaska Native veterans of the Vietnam Era who did not apply for an allotment prior to the revocation of the Alaska Native Allotment Act in 1971; on the other hand, the

desirability of avoiding the creation of new privately owned tracts within the national conservation system units of ANILCA.

The Sierra Club has reviewed the "legislative suggestions" contained in the Report. Based in part on these suggestions, we make the following recommendations.

1. Limit eligibility to those veterans who served more than one year of active duty during the period January 1-December 18, 1971. This was the period in which the Bureau of Indian Affairs, Alaska Legal Services, and Rural Community Action Program made a concerted effort to notify Alaska Natives of the need to file allotment applications prior to the likely passage of the Alaska Native Claims Settlement Act. Native veterans returning from service prior to this period had ample time in which to apply for allotments, and they were presumably notified during the 1970-71 period to the same extent as other Alaska Natives were notified.
2. Limit new allotment applications within CSUs to the 11(a)(1) village withdrawal areas, thus concentrating any new allotments in the areas where most existing Native allotments and village corporation lands are located. This would avoid the conflicts and management problems associated with new inholdings located in remote, undeveloped areas of the CSUs.
3. Include a cash settlement option. In some cases, suitable allotment lands may not be available, or the applicant would prefer cash to land. If this option were utilized by a significant number of eligible veterans, at least some potential incompatible uses and commercial developments associated with new CSU allotments could be avoided. According to the Report, a buy-back program limited to CSUs, and under the 1970-71 eligibility scenario, would cost an estimated \$38 million.

Most Native corporations have selected lands in excess of their ANCSA entitlement. Such "overselections" within the 11(a)(1) withdrawals should be made available for veteran allotment applications. Had Vietnam-era veterans applied for allotments prior to December 18, 1971 for available land in what subsequently became 11(a)(1) withdrawal areas, their applications would have taken precedence over subsequent village and regional corporation selections.

4. Apply the provisions of Sec. 905 of ANILCA to new allotments. Sec. 905 provided for legislative approval of certain allotment applications pending on or before passage of ANCSA. The Report notes that "Although some applications have been approved and conveyed [under Sec. 905], a great many fall within the excepted categories and must be fully adjudicated under the criteria of the Alaska Native Allotment Act."

5. Other recommendations. We concur with Report "legislative consideration" 4, heirs of deceased eligible veterans; 9, period for filing applications; and 10, applicants limited to one 160-acre parcel.

Elim Reserve

This proposal was part of H.R. 2505 of the 104th Congress. The Committee heard testimony on the Elim proposal during a hearing on that bill on March 19, 1996.

We opposed the proposal then, and we continue to oppose it now. We have reviewed the analysis of the legal and historical facts of this matter as presented to the Committee by the Department of the Interior at the March, 1996 hearing. We concur with the Department's conclusion that "There appears to be no basis in

law or policy for passage of this proposed legislation." We urge the Committee to delete the section.

Remaining provisions of H.R. 2924

The Sierra Club opposes the proposed recognition of certain Alaska Native communities of southeast Alaska, the Huna Totem and Kake land exchanges, and the proposed imposition of a 500-foot-wide right-of-way across the eastern Copper River Delta in the Chugach National Forest. I will submit statements on these provisions for the record of the hearing.

This concludes my statement, Mr. Chairman. Thank you for the opportunity to present the views of the Sierra Club.

1. A conservation system unit (CSU) is "...any unit in Alaska of the National Park System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, or a National Forest Monument..." (ANILCA, Sec. 102(4)).

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